

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

GREGORY A. MYERS,

Plaintiff,

v.

FLAGSTAR BANK, FSB

Defendant.

CASE NO. C15-5067 RBL

ORDER DISMISSING PLAINTIFF'S  
CASE FOR LACK OF SUBJECT-  
MATTER JURISDICTION

Dkt. # 15 and 29

THIS MATTER comes before the Court on Defendant Flagstar's Motion to Dismiss [Dkt. # 15] and Plaintiff Gregory Myers' Second Amended Complaint [Dkt. # 29]. In its prior Order, the Court dismissed Myers' claims but granted him leave to amend his complaint to assert an actionable claim against Flagstar [Dkt. # 28].

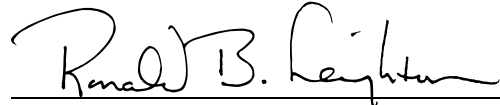
Myers's Second Amended Complaint alleges that Flagstar violated 11 U.S.C. § 524(a) by mailing him monthly mortgage billing statements on a discharged debt. It asks the Court to hold Flagstar in contempt under 11 U.S.C. § 105.

An action for contempt based on violation of a discharge order must be brought by motion in the bankruptcy court. *See Barrientos v. Wells Fargo Bank, N.A.*, 633 F.3d 1186, 1189 (9th Cir. 2011); *see also Walls v. Wells Fargo Bank, N.A.*, 276 F.3d 502, 509 (9th Cir. 2002)

1 (reasoning that a bankruptcy judge who issued a discharge order giving rise to an injunction  
2 should enforce it). Myer's Second Amended Complaint is DISMISSED WITHOUT  
3 PREJUDICE under Fed. R. Civ. P. 12(h)(3) for lack of subject-matter jurisdiction.

4 IT IS SO ORDERED.

5 Dated this 15<sup>th</sup> day of October, 2015.

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8 Ronald B. Leighton  
9 United States District Judge  
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